

Approved

**TOWN OF WESTFORD**

**BOARD OF SELECTMEN**

**MINUTES**

**DATE:** June 11, 2002

**TIME:** 7:30 P.M.

**PLACE:** J.V. Fletcher Library

**PRESENT:** Dini Healy-Coffin, Chris Romeo, Robert McCusker,  
Robert Jefferies-*arrived 8:40*, Allan Loiselle

**Open Forum**

McCusker reported that he received a telephone call from a resident regarding the Crossing Guards getting cut from the Police budget. Deputy Chief Tom McEnaney stated that the Crossing Guards were cut from the budget (approximately \$28,000) in April and after Town Meeting voted to not approve the trash fee in May. McEnaney read a memo from Chief Welch to the Board regarding his position relative to the four Crossing Guard positions. The cuts represent the least impact of services to Town residents. McEnaney stated that the Crossing Guards work at the Day, Abbot, Nabnasset and Robinson Schools for a total of 12 to 21 students crossing. McEnaney stated that Chief Welch has looked at the alternatives with Bill Olson, School Business Manager to have corporate sponsors for the Crossing Guards or identifying the crossing areas as bus stops. Healy-Coffin disagreed with cutting the Crossing Guards and asked the Police Department to look elsewhere for the cuts. McCusker suggested looking at the overtime budget and make up the transfer at Fall Town Meeting as it appears that the Town will be getting more than anticipated in Local Aid from the State. Ledoux suggested coming back with a recommendation at a meeting in July. Romeo also disagreed with the cut and suggested that the \$28,000 be funded elsewhere. Romeo was also concerned with the potential liability to the Town if something

should happen to a student. Ledoux noted that some towns have a partnership with the School Department and the Police Department with the schools paying the Crossing Guard salaries. Marilyn Frank, 6 Chamberlain Road, stated that she sees students crossing at the Nabnasset School during prime traffic hours and the removal of the Crossing Guards would become a safety issue.

Healy-Coffin announced that the Water Department has received a Best Overall System Award from the DEP, EPA and Mass Water Works. Healy-Coffin congratulated the Water Department.

### **Town Facts**

Healy-Coffin reported that the Board received an anonymous letter asking if the Finance Committee did research on capital equipment. Specifically in question was the ladder truck for the Fire Department. Ledoux reported that Chief Rochon made a presentation to the Board regarding new ladder trucks and demo models. Ledoux stated that it is the Chief's desire to get a demo truck and is in the process of reviewing specifications for the best equipment for the department. The demo models are less expensive than buying a new truck from the manufacturer. Ledoux outlined the public bidding and appeals processes. The Town must go with the lowest responsible bidder. Healy-Coffin asked residents to sign correspondence in the future so that a response can be given directly.

### **Public Hearing: Keno License – Club Franco American**

Healy-Coffin referenced a letter from the Massachusetts State Lottery Commission, dated May 24, 2002. In accordance with Massachusetts General Laws, Chapter 10, Section 27A, the Club Franco American De Westford, 55 West Prescott Street, applied for a Keno license. Leslie Thomas, 8A Old Colony Drive, asked how many other Keno licenses were in Westford. Ledoux stated that he did not know the exact number but there were several Keno licenses. It was moved by McCusker, seconded by Loiselle, and VOTED 4 IN FAVOR with 1 ABSENT (Jefferies), to support the Keno license for the Club Franco American.

### **Discussion of Reorganization of Water Commissioners**

Ledoux reported that the Water Commissioners have had problems with a quorum on occasion and have asked the Selectmen to give authority to the Town Manager to reorganize the Board of Water Commissioners. Warren Sweetser, Water Superintendent, stated that a Water Commissioner will be resigning in August. Sweetser requested that

Ledoux reorganize the Board of Water Commissioners by appointing an alternate Commissioner. Leslie Thomas, Water Commissioner, stated that the Commissioners are involved in projects that require timely votes. Thomas also requested that the alternate Commissioner be given time to become familiar with the Water Department during the transition in August. Ledoux stated that the Town Charter allows the Town Manager to reorganize the Board of Water Commissioners with the Board's approval. It was moved by Romeo, seconded by Loiselle, to allow the Town Manager to reorganize the Board of Water Commissioners by adding an alternate member. McCusker did not want to vote without confirmation of Town Counsel. Healy-Coffin stated that the Town Charter clearly states that this action can be taken. Healy-Coffin questioned spending money for an opinion from Town Counsel. McCusker stated that he did not want to vote until he had time to read the Charter. Sweetser stated that the Water Department would pay for Town Counsel's opinion if there were any questions after reading the Charter. The Board agreed. Romeo amended his motion: to allow the Town Manager to reorganize the Water Commissioners by adding an alternate member contingent upon Town Counsel's opinion. VOTED 4 in FAVOR with 1 ABSENT (Jefferies).

#### **AT&T License Transfer Deliberation**

Dave Levy and Don Whitehouse, Co-Chairman of the Cable Advisory Committee (CAC), Special Counsel Peter Epstein, Elizabeth Graham and Rob Travers, Government Affairs for AT&T Broadband, were present to discuss the change of control of the Cable Television Renewal License held by AT&T to AT&T Comcast. Levy distributed the Cable Advisory Committee report relative to the proceeding of the public hearing held on April 10, 2002. Levy read the conclusions of the report, options for official response, CAC recommendations, and additional guidance. Levy reported that the CAC passed by majority vote that the CAC recommends that the Board of Selectmen officially deny the Change of Control of Westford cable franchise; and the CAC passed by unanimous vote that the CAC recommends that the Board of Selectmen endeavor to defend the Denial decision under Appeal to the maximum extent possible. Levy noted that there is an annual franchise fee paid to the Town general fund by AT&T in the amount of \$0.50 per subscriber which could be used for legal fees. Levy stated that the Town may be able to consolidate the appeal hearings with other communities to also help defray the legal fees. Romeo noted that a stenographer was setting up and asked if he was working on behalf of AT&T Comcast in anticipation of an adverse outcome. The stenographer stated that he was hired by AT&T Comcast

but did not know why. McCusker asked if this matter should be discussed in Executive Session due to potential legal matters. Epstein stated that there are exceptions to the open meeting law for a discussion of litigation. Epstein stated that the CAC has worked with AT&T in the open and if the Selectmen had a concern with litigation an Executive Session could be held in the future. Romeo felt it was bad form to come to a meeting and presuppose an adverse decision by the Board. Romeo stated that the meeting is on cable and a copy of the tape could be supplied to AT&T. Romeo stated that the Board must determine whether or not AT&T Comcast has the financial capabilities, management expertise, technical expertise and legal ability to fulfill the requirements under the transfer. Romeo stated that because AT&T Comcast does not exist, the Board cannot judge that entity. Romeo stated that he went on the Internet to check the stock of both AT&T Broadband and Comcast and found that both entities were in a downward slope. Romeo felt that it was impossible for the Board to do the task that is needed when a corporation is not legally in existence. Romeo urged the Board to take action tonight and deny the transfer. Loiselle asked if the Board could transfer a license to an entity that does not exist. Epstein stated that the entity may exist on paper only. Epstein stated that it may be reasonable for the Board to look at the current management, technical and financial abilities if the transfer goes through because AT&T Comcast will be relying on these people. Epstein stated that the new company will have three times the subscribers and an infrastructure that is totally different. Epstein felt that that CAC's conclusions were reasonable particularly relative to the financial aspects. Romeo asked the CAC to do a performance evaluation hearing again this year. It was moved by Romeo, seconded by Loiselle for discussion, to deny the license under the 4<sup>th</sup> scenario that the Cable Advisory Committee suggested which is maximal denial based on our inability to evaluate the 4 criterion because of AT&T Comcast's failure to be able to demonstrate audited financial reports on an entity that does not exist. Whitehouse stated that he voted in the minority to recommend denial because he felt that bringing up the denial was enough. Whitehouse was not sure that it was our fight that we need to fight, nor was it a strong enough court case. Epstein outlined the appeals process open to AT&T Comcast. Epstein felt that the cable service should not be affected as the local license will not change. The license renewal is up in 2003. Epstein outlined the processes to renew or deny at the license renewal level. Graham stated that there is a low threshold under federal law regarding financial capabilities. Graham offered to provide to the Board information relative to financial considerations. McCusker stated that the residents of Westford are looking for improved services. Graham stated that they have made

significant strides to improve customer service. Graham distributed information regarding Comcast including a letter from Graham relative to the upgrading of Westford to broadband next year. Graham stated that Westford is on the 2003 upgrade schedule. Graham stated that 90% of the upgrade should be completed by the end of this year with the remaining 10% to be completed as soon as possible. McCusker asked for a commitment letter regarding the upgrade. Graham stated that her letter was the commitment at this point. Romeo asked for the broadband promises in writing. Romeo restated his motion: It was moved by Romeo, seconded by Loiselle, and VOTED UNANIMOUSLY, that the Selectmen officially deny the change of control of Westford's cable franchise and that the Selectmen endeavor to defend the denial decision under appeal to the maximum extent possible. The CAC to provide a denial statement for the Board's signature on June 18<sup>th</sup>. Levy reported that the Town of Acton has also voted to deny the transfer.

#### **Summary of Early Retirement Law**

Ledoux and the Human Resources Director will be attending a workshop on June 21, 2002 regarding the Early Retirement Law. Ledoux referenced a memorandum from Chris Liebke, Human Resource Director, which outlined the key provisions of the act, local option acceptance, plan design, dates, cost, and action items. Ledoux stated that he has asked the Middlesex Retirement System for a seniority list but was told that they cannot generate such a list. Ledoux has asked interested employees to contact the Middlesex Retirement System directly. Ledoux stated that as much information as possible is needed before making any decisions and crafting a plan. McCusker asked how many people could take advantage of the early retirement. Ledoux stated that he had a list of all employees over the age of 50 with 10 years in the retirement system (approximately 20 – 25 employees). Ledoux stated that he would like to survey the employees to determine interest in early retirement. Ledoux to keep the Board informed.

#### **Licenses and Permits**

**Request for Block Party (block off portion of Banbury Drive) for June 23, 2002.** It was moved by Romeo, seconded by Loiselle, and VOTED UNANIMOUSLY, to approve contingent upon approval by the Police Chief and Fire Chief.

#### **Request from Westford Grille to display Town Seal in Restaurant.**

Ledoux reported that Mr. Moran has requested the display of the Westford town seal in a separate dining room (the town seals of Concord and Littleton would also be displayed in separate rooms). Loiselle

suggested that the Town keep track of the town seals so that there is no unauthorized use. It was moved by Romeo, seconded by Loiselle, and VOTED UNANIMOUSLY, to approve.

### **Selectmen Appointments**

Healy-Coffin announced the resignation of Ellen Doucette from the Zoning Board of Appeals. The Board to send a letter of thanks to Doucette. Ledoux to ask Roger Hall if he would like to change his status from alternate to permanent member of the Zoning Board of Appeals. Loiselle noted that there are three positions for reappointment to the Conservation Commission and six applicants (3 incumbents/3 new). It was Loiselle's understanding that when an application was received, it was not voted on until the next meeting. Accordingly, Loiselle notified the three applicants that they did not need to attend tonight's meeting. Loiselle stated that he was unsure as to the process and asked for clarification. Loiselle was unable to reach the three applicants. Healy-Coffin stated that the majority of people are reappointed. Healy-Coffin stated that she spoke to the Chairman of the Conservation Commission and was told that when there is a vacancy, the Commission will place an advertisement in the newspaper, then interview the candidates and make a recommendation to the Board. McCusker stated that typically people are reappointed. McCusker noted the difficulty in getting volunteers for various boards and committees. Mary Trubey, 34 Depot Street, member of the Conservation Commission, stated that for many years she was an observer of the Commission and was appointed after three members left the Commission. Trubey stated that the Commission would be well aware if someone should not be reappointed and the Chairman would inform the Selectmen. Trubey felt that it was unprecedented that if someone wants to be reappointed that they are not reappointed. Trubey also felt that it was unfair to interview when the members up for reappointment have given many years of service to the Town. Loiselle felt that the reappointment process shuts people out of the process. Eric Fahle, Chairman of the Conservation Commission, stated that it took him three years to be appointed to the Commission. Fahle reiterated the process followed when a vacancy occurs. Fahle stated that he, Christie Williams and Bill Harman would like to be reappointed to the Conservation Commission. Marilyn Frank, Chamberlain Road, Conservation Commission member, felt that continuity makes strong Boards. Frank stated that the process has worked for many years and should remain in tact. Frank stated that people desirous of becoming a member should attend the meetings. Romeo suggested allowing the three other people an opportunity to speak and make the appointment on June 18<sup>th</sup>. Romeo did not want a closed process. Jefferies noted that

if the Board wanted to follow precedent, the other three people should not be interviewed. Peter Severance, 3 Snow Drive, asked the Board to follow the standard rule and the open process. Severance stated that he knows people who would like to service on the Conservation Commission. Severance pointed out that the Conservation Commission has been before the Selectmen on controversial issues, mainly the drawdown of Nabnasset Lake. Severance asked the Board to allow the people who have been doing a good job to continue. It was moved by Romeo, seconded by McCusker, and VOTED 4 IN FAVOR with 1 ABSTAINING (Loiselle), to reappoint Eric Fahle, Christie Williams and Bill Harman to the Conservation Commission. Fahle thanked the Board for the reappointments. Jefferies stated that three people from Nabnasset would like to serve on the Commission. Jefferies urged the Commission to allow these people to help out with conservation issues, particularly the drawdown. Fahle stated that this will be discussed at their next meeting and that the Commission will be seeking assistance from the members of the Nabnasset Lake Preservation Association. Ledoux noted that Don Whitehouse has resigned from the Cable Advisory Committee. Ledoux stated that Bill Coakley cannot be reappointed to the CPA Committee until a recommendation from the Housing Authority is received. Healy-Coffin read the list of reappointments. It was moved by Romeo, seconded by Jefferies, and VOTED UNANIMOUSLY, to reappoint the list of names with the exception of Phil McGee, Registrar of Voters; Don Whitehouse, Cable Advisory Committee; Christie Williams, Highway Garage Site Committee; Roberta Maguire and the members of the Historic Commission; and Bill Coakley, CPA. McCusker suggested that the reappointment letter list a specific date to be sworn in and anyone not sworn in be deemed not reappointed in order to determine interest. A citizens activity application received from R. Dave Deherdt, 80 Main Street. Ledoux to send a list of committee vacancies to Deherdt.

### **Minutes**

It was moved by Romeo, seconded by McCusker, and VOTED 4 IN FAVOR with 1 ABSTAINING (Loiselle), to approve the minutes of April 23, 2002.

It was moved by Romeo, seconded by McCusker, and VOTED 4 IN FAVOR with 1 ABSTAINING (Loiselle), to approve the Executive Session minutes of April 23, 2002 but NOT release to the public.

It was moved by Romeo, seconded by Jefferies, and VOTED 3 IN FAVOR with 2 ABSTAINING (McCusker, Loiselle), to approve the Executive Session minutes of April 30, 2002 but NOT release to the public.

It was moved by Romeo, seconded by Jefferies, and VOTED 4 IN FAVOR with 1 ABSTAINING (Loiselle), to approve the minutes of April 30, 2002.

It was moved by Romeo, seconded by Jefferies, and VOTED 3 IN FAVOR with 2 ABSTAINING (McCusker, Loiselle), to approve the minutes of May 1, 2002.

It was moved by Jefferies, seconded by Healy-Coffin, and VOTED 2 IN FAVOR with 3 ABSTAINING (Romeo, McCusker, Loiselle), to approve the minutes of May 6, 2002.

It was moved by Romeo, seconded by Loiselle, and VOTED UNANIMOUSLY, to approve the minutes of May 11, 2002.

It was moved by Loiselle, seconded by Jefferies, and VOTED 3 IN FAVOR with 2 ABSTAINING (McCusker, Romeo), to approve the minutes of May 13, 2002.

#### **Franklin Property**

Ledoux reported that Chris Franklin was seeking an occupancy permit for 31 Bridge Street. Franklin was unable to obtain the occupancy permit due to unpaid taxes in the amount of approximately \$17,500. It was moved by Romeo, seconded by McCusker, and VOTED UNANIMOUSLY, to advise Suzanne Marchand, Finance Director, to pursue potential foreclosure action against the Franklin properties for unpaid taxes, if not paid by July 1, 2002.

#### **Board Reports/Updates**

**Housing Lottery – Orion Way** – Romeo reported that the Affordable Housing Committee conducted a lottery for an affordable house on Orion Way. Of the 35 applicants, 25 were Westford residents. The lottery was awarded to a Westford resident. Romeo clarified that the house was appraised by Diane Holmes in the amount of \$260,000. Romeo urged anyone interested in the next affordable housing lottery to contact Romeo or Christine Pude, Housing Authority Director.

**CPA Public Hearing** – Romeo reported that a public hearing was recently held. The committee received input from the Affordable Housing Committee and the Recreation Commission to get to know the needs to of the Town. Awards of CPA will be made in the fall. Romeo announced that applications are available on the Town's web site.



**Crisafulli School** – Jefferies reported that the Permanent School Building Committee toured the Crisafulli School recently. That school is anticipated to be delivered on time. The Greystone School opening date has not yet been determined. McCusker asked for the status of the Millennium School and its potential resale. Jefferies stated that the status of the Millennium School will be addressed when the middle school starts. Discussions should begin next Spring.

**Old Business/New Business**

**Summer Schedule** – The following summer schedule was approved by the Board: Tuesday, June 18<sup>th</sup>; Tuesday, July 16<sup>th</sup>; August 13<sup>th</sup>.

**Assistant Town Manager/Land Use and Planner II Positions** – Ledoux reported that the Planner II position has been advertised. Ledoux stated that the job description for the Assistant Town Manager was distributed for comment to the various town boards. Ledoux stated that Lou Ashley of the Board of Health objected to having environmental services included as a department being supervised. Ledoux suggested changing the language to “coordination of efforts”. McCusker noted that the position title on the classification plan states “Assistant Town Manager”. McCusker asked if a new position was being created for Land Use Manager. Ledoux stated that a new position was not being created. The inclusion of Land Use was for clarification purposes in advertising as a large part of the job requires land use and planning skills.

**Meeting with Fisheries and Wildlife regarding Deer** – To be scheduled for the June 18<sup>th</sup> meeting.

**Meeting with the Hardings regarding 6 Trails End Road** – Ledoux reported that Mrs. Harding would like to address the Board. To be scheduled for June 18<sup>th</sup>.

**Town Audits** – McCusker asked for a status of the town audits. Ledoux reported that drafts are being reviewed for comment by the Finance Department and should be available within the next 2-3 weeks.

**Stipend Policy** – McCusker recommended a review of the stipend policy for all employees so that there is a consistent policy. Ledoux agreed. Ledoux state that he would try to make a presentation on the parks and recreation consolidation at the June 18<sup>th</sup> meeting.

**Policies Update** – McCusker asked for an update regarding the policy book. Healy-Coffin stated that the League of Women Voters has decided not to do the Board's policy book. One member from the League will volunteer to help out if a committee is formed. Romeo suggested asking Elizabeth Michaud for assistance. McCusker suggested dividing up the policies between the Board members for a rewrite and present them at a future meeting. Ledoux recommended using a policy book he has from another community as a base document. McCusker stated that he would be willing to review portions of the policy book and provide comments. Ledoux also recommended a committee be formed. Ledoux to contact the League of Women Voters for a member to help.

**Meyers Briggs Team Building Exercises** – Healy-Coffin asked the Board to send the test to Future Management.

**One Way on Patten Road** – Ledoux stated that a public hearing needs to be scheduled for July. The Police Chief and Highway Superintendent will be preparing a proposal for the Board's review.

#### **Correspondence**

Healy-Coffin read a list of the correspondence.

#### **Motion to Go Into Executive Session**

It was moved by Romeo, seconded by Loiselle, and VOTED UNANIMOUSLY, to go into Executive Session for the purpose of discussing contract negotiations with CWA Union, the teacher's contract, the Town Manager's contract, Whittlesey vs. Zoning Board of Appeals and a real estate issue regarding Rancho De Amigos Restaurant. A polling of the Board: Healy-Coffin-yes; Romeo-yes; McCusker-yes; Jefferies-yes; Loiselle-yes. The Board to reconvene to regular session for the purpose of adjourning.

#### **Open Items**

6/11-1 Board to send letter of appreciation to Ellen Doucette re: resignation from ZBA.

6/11-2 Ledoux to contact Roger Hall re: changing status from alternate to permanent member of ZBA.

6/11-3 Ledoux to send list of committee vacancies to R. Dave Deherdt.

6/11-4 Ledoux to advise Finance Director to pursue potential foreclosure action against Franklin property if taxes are not paid by 7/1/02.

**Adjournment**

It was moved by Romeo, seconded by Loiselle, and VOTED UNANIMOUSLY, to adjourn the meeting at 10:45 p.m.

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Steve Ledoux, Town Manager

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Dini Healy-Coffin, Chairman